

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7198

BILL NUMBER: SB 373

NOTE PREPARED: Feb 26, 2013

BILL AMENDED: Feb 25, 2013

SUBJECT: Agricultural and Industrial Operations.

FIRST AUTHOR: Sen. Holdman

FIRST SPONSOR: Rep. Friend

BILL STATUS: As Passed Senate

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill makes it unlawful recording of agricultural or industrial operations, a Class A infraction, for a person, with intent to defame or to directly or indirectly harm the business relationship between an agricultural or industrial operation and its customers, to:

1. Enter real property that is owned by another person and on which agricultural operations or industrial operations are being conducted;
2. Take a photograph of or make a video recording or motion picture of the real property, structures located on the real property, or the agricultural operations or industrial operations being conducted on the real property; and
3. Distribute the photograph or recording; without the written consent of the owner of the real property or an authorized representative of the owner.

It increases the penalty to a Class B misdemeanor if the offense is committed knowingly or intentionally and the person has a prior unrelated judgment or conviction.

The bill establishes a defense if the person:

1. Has a good faith belief that the person was recording evidence of illegal activity;
2. Provides the recording to a law enforcement or regulatory agency within 48 hours; and
3. Does not distribute the recording to anyone other than a law enforcement or regulatory agency.

The bill also provides that an employer who retaliates against an employee who makes a good faith report concerning illegal activities may be liable under certain whistleblower protection statutes.

Effective Date: July 1, 2013.

Explanation of State Expenditures:

Explanation of State Revenues: The bill makes it a Class A infraction for unlawful recording of agricultural or industrial operations. It is unknown how many new convictions might occur. If additional court cases occur and fines are collected, revenue to the state General Fund would increase. The maximum judgment for a Class A infraction is \$10,000, which is deposited in the state General Fund.

(Revised) The penalty increases to a Class B misdemeanor if the offense is committed knowingly or intentionally and the person has a prior unrelated judgment or conviction. In addition, an employer who retaliates against an employee for making a good faith report concerning illegal activities may be subject to a Class B misdemeanor, as well. The maximum fine for a Class B misdemeanor is \$1,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit or superior court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the automated record keeping fee (\$5), judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$2) are deposited into the state General Fund.

Explanation of Local Expenditures: A Class B misdemeanor is punishable by up to 180 days in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Persons found guilty of a felony or misdemeanor are also required to pay the document storage fee (\$2), which is deposited into the clerk record perpetuation fund, and the jury fee (\$2) and the law enforcement continuing education fee (\$4), which are both deposited in the county user fee fund.

State Agencies Affected:

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources:

Fiscal Analyst: Chuck Mayfield, 317-232-4825.